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**Comments: Re: Application No. 09/942,310**  
**For: DETECTION OF CYP2D6 POLYMORPHISMS**  
**Attorney Docket No. 532592001900**

**Attached:**

Transmittal Form (1 page)  
Supplemental Response to Restriction Requirement (3 pages)

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**TRANSMITTAL  
FORM**


(to be used for all correspondence after initial filing)

<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	09/942,310	
	Filing Date	August 29, 2001	
	First Named Inventor	Carl RISINGER	
	Group Art Unit	1634	
	Examiner Name	JOHANNSEN, DIANA B	
Total Number Of Pages In This Submission	4	Attorney Docket No.	532592001900

**ENCLOSURES (check all that apply)**

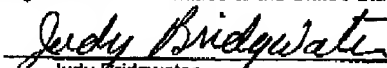
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment / Reply	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declarations	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application	Remarks	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

**SIGNATURE OF APPLICANT, ATTORNEY OR AGENT**

Firm or Individual Name	Bruce D. Grant, Reg. No. 47,608 Morrison & Foerster LLP 3811 Valley Centre Drive, Suite 500, San Diego, CA 92130
Signature	
Date	April 11, 2003

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at (703) 872-9306 on April 11, 2003.

  
Judy Bridgewater

Burden Hours Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231.

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P A T E N T  
Docket No. 532592001900

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Judy Bridgewater

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Carl RISINGER, *et al.*

Serial No.: 09/942,310

Filing Date: August 29, 2001

For: DETECTION OF CYP2D6  
POLYMORPHISMS

Examiner: Diana B. Johannsen,

Group Art Unit: 1634

## SUPPLEMENTAL RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

This is in response to an Office action herein mailed December 17, 2002, an amendment filed January 17, 2003, and an Office communication mailed March 26, 2003. The Office communication set a time for response expiring on April 26, 2003. As this submission is filed before April 26, 2003, it is respectfully submitted that no petition for an extension of time or a corresponding fee is required.

P A T E N T  
Docket No. 532592001900

In the restriction requirement dated December 17, 2002, the Office required restriction among the subject matter of claim 1 and the subject matter of claims 2-8. For the subject matter of claim 1, the Office required further restriction to one of eight combinations of polymorphisms and noted that this requirement was not an election of species.

In the amendment filed January 17, 2003, the applicants elected the subject matter of claim 1 and introduced new claims 9-16. In the remarks section of the amendment, the applicants cited legal precedent holding that the Office is barred from restricting within a single claim. In the Office communication dated March 26, 2003, the Office stated that the amendment was not fully responsive as the election of one of the eight combinations was not specified.

Supplemental to the amendment filed January 17, 2003, the applicants hereby further elect the combination of polymorphic sites represented by positions 36, 194, and 942 of SEQ ID NO:2. This election is with traverse for the reasons set forth in the amendment. Specifically, controlling legal precedent holds that the Office may not restrict subject matter within a single claim. Because claim 1 as filed specified eight combinations of polymorphic sites, the Office is obliged to examine the subject matter of this claim without dividing it by restriction.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Assistant Commissioner to

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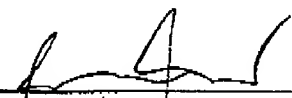
P A T E N T  
Docket No. 532592001900

charge the cost of such petitions and/or other fees due in connection with the filing of this  
document to Deposit Account No. 03-1952 referencing Docket No. 532592001900.

Respectfully submitted,

Dated: April 11, 2003

By:

  
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